

CITY OF ILOILO, PLAINTIFF AND APPELLEE, VS. REMEDIOS SUN VILLANUEVA AND EUSEBIO VILLANUEVA, DEFENDANTS AND APPELLANTS.

G.R. No. 12695. March 23, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Remedios Sian Villanueva and Eusebio Villanueva, spouses, are the owners of four apartment houses for rent situated in Iloilo City, to wit: the first house consists of 11 apartments situated at the corner of Iznart and Aldeguer Sts.; the second consists of 14 apartments situated at Aldeguer St.; the third consists of 7 apartments situated at the corner of Aldeguer and J. M. Basa Sts.; and the fourth consists of 2 apartments situated at the same place. Each apartment is occupied by one family and the food for each is cooked therein.

On September 30, 1946, the Municipal Board of Iloilo City enacted Ordinance No. 86, amending Ordinance No. 33, wherein the following was provided: (1) tenement house (casa de vecindad), P25 annually; (2) tenement house partly or wholly engaged in or dedicated to business in the streets of J. M. Basa, Iznart and Aldeguer, P24 per apartment; (3) tenement house partly or wholly engaged in business in any other streets, P12.00 per apartment.

Pursuant to Ordinance No. 86, the city sought to collect from the spouses an annual license tax fee of P24 for each of their 34 apartments, or the total sum of P1,610 allegedly due during the period from the fourth quarter of 1946 to the third quarter of 1948, plus the sum of P332 representing 20% penalty. The spouses having refused to pay the same, the City of Iloilo filed in the municipal court an action to recover the tax and penalty above-mentioned.

Defendant spouses answered the complaint contending that the ordinance under which the tax is sought to be collected infringes the powers granted to the city by its Charter and that said ordinance is violative of the constitutional provision requiring uniformity of taxation upon the theory that it is oppressive, unreasonable and discriminatory. Because of the issue of constitutionality raised, the case was elevated to the Court of First Instance of Iloilo.

Counsel for both parties submitted a stipulation of facts, which was supplemented by an oral admission of other facts in open court. Thereafter, the court rendered judgment upholding the legality of the ordinance and ordering defendants to pay the taxes claimed, with interest and costs. Defendants appealed from this decision to the Court of Appeals, but this case was elevated to this Court because it involves only questions of law.

It is clear from the Charter of Iloilo City that its municipal board is given the power to impose a license fee upon the owner of any business or occupation established in the city in the exercise of its police power. This is clearly inferred from paragraph (cc), section 21, of the Charter (C.A. No. 158), which provides that the municipal board has the express power (a) to regulate any business or occupation, and (b) to require licenses from persons engaged in such business or occupation in the city. But in fixing the fee that may be exacted, it becomes important to determine its nature and purpose to ascertain whether the power thus conferred has been properly exercised. To this effect, it becomes equally important to bear in mind if the fee is imposed either as a police regulation or

purely as a revenue measure, for the rules that govern its validity are different. Thus, it has been held that "License fees for revenue rest upon the taxing power as distinguished from the police power, and the power of the municipality to exact such fees must be expressly granted by charter or statute and is not to be implied from the conferred power to license and regulate merely" (Cu Unjieng vs. Patstone, 42 Phil., 818).

It is therefore imperative to determine when a license fee is charged merely for purposes of regulation and when for purposes of revenue in order to see if the power has been exercised within the scope of the express powers granted by the law or statute. One test formulated by the authorities to attain this objectives is the following: "If the fee is designed to raise substantially more than the cost of the regulation to which it purports to be an incident, its purpose is to raise revenue. If it is a fee attached to a particular provision for regulation, and appears to be imposed to cover the cost of that regulation, and does substantially only that, then it is merely for the cost-paying part of a regulatory measure" (Carter vs. State Tax Commission, 126 A.L.R., 1402).

This Court has also had occasion to lay down certain rules for determining the nature of the license fees that may be imposed on the business or occupation that may be established in a given place, and so that the same may guide us in drawing the demarcation line in the exercise of the power one way or the other, we will quote hereunder the portions we consider pertinent:

"(1) The first two of these classes is based on the exercise of the police power and, though there is some conflict of authority on this point, the better rule seems to be that the conferred power to regulate and to issue such licenses carries with it the right to fix a license fee. It is well settled that in the absence of special authority to impose a tax for revenue the fee for this class of licenses may only be of a sufficient amount to include the expense of issuing the license and the cost of the necessary expense of direct regulation but also incidental consequences.

"(3) The fee in the third class of cases, those for revenue purposes, is, perhaps, not a license fee properly speaking but is generally so termed. It rest upon the taxing power as distinguished from the police power, and the power of the municipality to exact such fees must be expressly granted by charter or statute and is not to be implied from the conferred power to license and regulate merely." (Cu Unjieng vs. Patstone, supra.)

It can therefore be said that in order that a license fee may be considered merely as a regulatory measure, it must be only "of a sufficient amount to include the expenses of issuing the license and the cost of the necessary inspection or police surveillance, taking into account not only the expense of direct regulation but also incidental consequences." On the other hand, if the fee charged is a revenue measure, the power to exact such fee "must be expressly granted by charter or statute and is not to be implied from the conferred power to license and regulate merely."

A cursory reading of the ordinance in question would at once reveal that the license fees charged therein are not merely for regulation but for revenue, because the fee of P24 per annum charged therein for every apartment far exceeds "the expense of issuing the license", plus "the cost of inspection or police surveillance", and other incidental expenses. Thus, for the first house which consists of 11 apartments, the defendants would have to pay a license fee of P264 annually; for the second house which consists of 14 apartments, the fee would be P308 annually; for the third house which consists of 14 apartments, the fee would be P308 annually; for the third house which consists of 7 apartments, and the fourth which consists of 2 apartments, the fee would be P216 annually. All in all, defendants would have to pay a license tax fee amounting to P888 per annum. This, in addition to the fees that may be exacted from many other residents similarly situated, would constitute a sizeable sum of revenue which would engross the coffers of the City. These fees cannot therefore be considered as merely for regulation purposes as contended.

It is however claimed that even if the fees exacted in the ordinance be considered as taxes for purposes of revenue

still their exaction may be justified because the same comes within the power granted to the city by its Charter. And in that advocacy the city invokes section 21, paragraph j, of the Charter, which gives the city the power "To tax, fix the license fee for, and regulate hotels, restaurants, refreshment parlors, cafes, lodging houses, boarding houses, livery garages, public warehouses, pawnshops, theaters, cinematographs." The city claims that a tenement house can be considered as one belonging to the group of hotels, lodging houses, or boarding houses therein enumerated.

We disagree. As may be seen from the definition of each establishment hereunder quoted, a tenement house is different from a hotel, lodging house, or boarding house. These are different business enterprises. They have been established for different purposes. And it is preposterous to contend that a tenement house may be considered as included in the clause "other establishments likely to endanger public safety or give rise to conflagration or explosions" mentioned in the Charter, for as to them the power given to the city is merely to fix their location to protect the safety of the public, and not to impose a license fee or tax.

"A hotel is a place for the accommodation of travelers with food and lodging." (Judell vs. Goldfield Realty Co., 108 P. 455, 457)

" 'Lodging houses' is the term applied to houses containing furnished apartments which are let out by the week or by the month, without meals, or with breakfast simply." (Cromwell vs. Stephens, N.Y., 2 Daly, 15, 25, 3 Abb. Prac. 26, 35, Cited in Vol. 25, Words and Phrases, p. 583)

"A boarding house is not in common parlance¹ or in legal meaning, every private house where one or more boarders are kept occasionally only and upon special considerations. But it is a quasi-public house, where boarders are generally and habitually kept, and which is held out and known as a place of entertainment of that kind." (Cady vs. McDowell, 1 Lans. N.Y. 486, State vs. MacRae 170 N.C. 712, 86 S.E., 1039; Friedrich Music House vs. Harris, 200 Mich. 421, 166 N. W. 869 L.R.A. 1918D, 400.)

"A tenement house is any house or building, or portion thereof, which is rented, leased, let, or hired out to be occupied, or is occupied, as the home or residence of three families or more living independently of each other and doing their cooking in the premises, or by more than two families upon any floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets, or privies, or some of them." (Webster's New International Dictionary, 2nd Ed., p. 2601.)

It is well-settled that a municipal corporation, unlike a sovereign state, is clothed with no inherent power of taxation. "The charter or statute must plainly show an intent to confer that power or the municipality cannot assume it. And the power when granted is to be construed strictissimi juris. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions—all these—have no place in the interpretation of the taxing power of a municipal corporation." (Icard vs. City of Baguio, 83 Phil., 870; 46 Off. Gaz. 11 Sup., 320; Medina vs. City of Baguio, 91 Phil., 854; 48 Off. Gaz., [11] 4769; Yu vs. City of Lipa, 99 Phil., 975; 54 Off. Gaz., [13] 4055. And it not appearing that the power to tax owners of tenement houses is one among those clearly and expressly granted to the City of Iloilo by its Charter, the exercise of such power cannot be assumed and hence the ordinance in question is ultra vires insofar as it taxes a tenement house such as those belonging to defendants.

Wherefore, the decision appealed from is reversed. The complaint is dismissed, without costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, and Endencia, JJ., concur.

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